

AMENDED IN SENATE JUNE 20, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 2519

Introduced by Assembly Member Umberg

February 23, 2006

~~An act to amend section 1326.1 of the Penal Code, relating to Criminal Procedure.~~ *An act to amend Section 6006 of the Business and Professions Code, relating to the practice of law.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2519, as amended, Umberg. ~~Criminal Procedure: court orders: service records~~ *State Bar inactive membership: eligibility for judgeship.*

Existing law provides that a person is eligible to be a judge of a court of record if he or she has been a member of the State Bar of California for 10 years immediately preceding selection. Existing law provides that those who are or have been enrolled as inactive members of the State Bar at their request are members of the State Bar for the purpose of that provision.

This bill would provide that inactive membership only qualifies as membership for purposes of eligibility to be a judge of a court of record if the person has also been an active member of the State Bar for at least 10 years.

~~Existing law provides that a judge may order the production of specified utility records upon ex parte application by a peace officer. The application must specify specific and articulable facts showing that there are reasonable grounds to believe the information sought is relevant and material to an ongoing felony money laundering, fraud, or embezzlement investigation.~~

~~This bill would allow a judge to order the production of certain, specified, service records, including, but not limited to, records in the possession of a bank, credit union, savings association, phone company, electronic communication, and utility service providers upon a sufficient ex parte application by a peace officer. This bill would also allow the order to be made when the peace officer is investigating a violent felony, as defined.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~-no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 6006 of the Business and Professions
2 Code is amended to read:

3 6006. Active members who retire from practice shall be
4 enrolled as inactive members at their request.

5 Inactive members are not entitled to hold office or vote or
6 practice law. Those who are enrolled as inactive members at their
7 request may, on application and payment of all fees required,
8 become active members. Those who are or have been enrolled as
9 inactive members at their request are members of the State Bar
10 for purposes of Section 15 of Article VI of the California
11 Constitution, *provided that they have been active members for at*
12 *least 10 years.* Those who are enrolled as inactive members
13 pursuant to Section 6007 may become active members as
14 provided in that section.

15 Inactive members have such other privileges, not inconsistent
16 with this chapter, as the board of governors provides.

17 SECTION 1. Section 1326.1 of the Penal Code is amended to
18 read:

19 1326.1. ~~(a) An order for the production of service records~~
20 ~~shall be issued by a judge only upon a written ex parte~~
21 ~~application by a peace officer showing specific and articulable~~
22 ~~facts that there are reasonable grounds to believe that the records~~
23 ~~or information sought are relevant and material to an ongoing~~
24 ~~investigation of a violent felony, as defined in Penal Code~~
25 ~~Section 667.5, or a felony violation of Section 186.10 or of any~~
26 ~~felony subject to the enhancement set forth in Section 186.11.~~
27 ~~The ex parte application shall specify with particularity the~~
28 ~~records to be produced, which shall be only those of the~~

1 individual or individuals who are the subject of the criminal
2 investigation. The ex parte application and any subsequent
3 judicial order shall be open to the public as a judicial record
4 unless ordered sealed by the court, for a period of 60 days. The
5 sealing of these records may be extended for 60-day periods
6 upon a showing to the court that it is necessary for the
7 continuance of the investigation. Sixty-day extensions may
8 continue for up to one year or until termination of the
9 investigation of the individual or individuals, whichever is
10 sooner. The records ordered to be produced shall be delivered to
11 the peace officer applicant, or his or her designee, within a
12 reasonable time period after the order is served upon the holder
13 of the service records.

14 (b) As used in subdivision (a), "service records" include, but
15 are not limited to, all records, in whatever form and wherever
16 stored, in the possession companies engaged in the business of
17 providing telephone, electronic communication, banking,
18 monetary saving, electric, gas, propane, water, or other like
19 services. "Service records" do not include the installation of, or
20 the data collected from the installation of pen registers or
21 trap-tracers, nor the contents of a wire or electronic
22 communication.

23 (c) Nothing in this section shall preclude the holder of the
24 service records from notifying a customer of the receipt of the
25 order for production of records unless a court orders the holder of
26 the service records to withhold notification to the customer upon
27 a finding that this notice would impede the investigation. Where
28 a court has made an order to withhold notification to the
29 customer under this subdivision, the peace officer or law
30 enforcement agency who obtained the service records shall notify
31 the customer by delivering a copy of the ex parte order to the
32 customer within 10 days of the termination of the investigation.

33 (d) No holder of service records, or any officer, employee, or
34 agent thereof, shall be liable to any person for (A) disclosing
35 information in response to an order pursuant to this section, or
36 (B) complying with an order under this section not to disclose to
37 the customer, the order or the dissemination of information
38 pursuant to the order.

1 ~~(e) Nothing in this section shall preclude the holder of the~~
2 ~~service records from voluntarily disclosing information or~~
3 ~~providing records to law enforcement upon request.~~

4 ~~(f) Service records released pursuant to this section shall be~~
5 ~~used only for the purpose of criminal investigations and~~
6 ~~prosecutions.~~